

EXHIBIT 1

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSE VELASQUEZ AND JOSE
ORTIZ, INDIVIDUALLY AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

v.

WCA MANAGEMENT COMPANY, L.P.

Defendants.

www.ck12.org

NO. 15-CV-2329

JURY DEMANDED

DECLARATION OF MATT GRAHAM

1. "My name is Matt Graham. I am over the age of eighteen and am otherwise competent to testify to the facts set forth in this Declaration. All statements contained in this Declaration are true and correct and are based upon a review of the business records of WCA Management Company, L.P. ("Company"), made and maintained in the normal and customary course of business, and of which I am an authorized custodian, as well as upon my personal knowledge.

2. I am currently the Regional Vice President for Company.

3. The Company is engaged in the removal of trash and other waste refuse from both commercial customer sites and residential customer homes. In the residential operations, the refuse collection truck driver is assigned a route, covering a specific geographic area, and was generally assisted by two helpers who move the trash from the customer's curb (or back door where such service is offered) to the truck and unload it into the truck's hopper.

4. In my capacity, I am familiar with the Company's operations and how its residential drivers were paid from time to time since 2012 through today.

5. Attached hereto as Exhibits A, B, C and D are payroll spreadsheets of the Company by which the pay of the drivers was tabulated. These spreadsheets were made on the dates indicated and were maintained by the Company in the regular and normal course of business.

6. Exhibit A is a payroll spreadsheet for December 22, 2012, reflecting the additional incentive pay which was earned by any particular driver. The overtime component on such incentive pay was calculated by adding the amounts of incentive pay earned and dividing it by the total hours worked in the week to get the driver's regular rate of pay; overtime pay for hours over 40 were calculated and added, and the total was added to the employee's gross pay. This is show by the associated payroll register for December 28, 2012 (the Company pays a week in arrears). Incentive pay included (i) driver incentive (show up) pay of \$5.00 per day; (ii) extra route pay for assisting another route upon completion of his own route or having a back door route of \$10 per route or \$25.00 for assisting on two or more additional routes; (iii) landfill pay for when a driver made an extra run to the landfill of \$25.00 per trip.

7. Exhibit B is a payroll spreadsheet for December 14, 2013, reflecting the same pay components – base pay, hours, overtime pay and additional incentives as in 2012, including overtime, plus an added incentive program for the residential drivers, called "Supplemental Pay," which was added to the residential drivers' pay in the first part of 2013. Under this system, designed to reward the efficient operation and completion of the driver's route, additional pay could be earned, based upon a formula weighting the hours worked into the maximum incentive

available. The calculation of the amount of Supplemental Pay included an overtime amount based upon the calculated regular rate for the Supplemental Pay component.

8. Exhibit C is a December 27, 2014, payroll register reflecting the Company's conversion of residential drivers to a fixed day rate of pay, with certain incentive pay components such as working part of an extra route ("split pay"), with overtime calculated on the driver's regular rate of pay, which was determined by dividing total compensation for the work week by the total number of hours worked. This was done because the residential drivers had expressed a lack of understanding of how the then current pay system worked and a desire to change to a flat daily rate of pay (a day rate) for route completion. The conversion occurred in the first quarter of 2014 and was completed by March 2014, except for seven of the residential drivers who continued to be paid under the prior system.

9. By August 10, 2015, all residential drivers had been converted to a flat day rate of pay, with overtime calculated based upon their regular rate of pay. Included in the calculation of the regular rate of pay and overtime were certain supplemental pay components, such as single helper pay, split pay (dividing the pay for a particular route other than their normal route covered by several drivers due to an absence), and back door pay (for back door pickups rather than curbside). Exhibit D is the spreadsheet for the week ending September 18, 2015 reflecting this fact.

10. All drivers at the Highway 6 location at all times involved in this suit, punched a time card from which their hours of work were tabulated for purposes of calculating their regular rates of pay and paying overtime on each such driver's regular rate for hours worked over 40 in the work week.


11. Both of the named Plaintiffs and the opt-in Plaintiffs in the captioned suit were employed at the Highway 6 facility during their entire tenure of employment. All, except Streeter, were employed as residential drivers during the time covered by this suit. Streeter was at all times covered by this suit until his resignation on October 4, 2013, employed as a Route Supervisor, a salaried, exempt position.

12. Effective August 10, 2015, the Highway 6 facility of the Company became covered by a collective bargaining agreement (CBA) with Teamsters Local 988, which governs the pay, overtime and working conditions of drivers and other hourly employees, and includes express grievance and arbitration provisions.

13. None of the Plaintiffs were employed by Defendant at the time the CBA became effective or thereafter.

14. I declare under penalty of perjury that the foregoing is true and correct.”

Executed on the 7th day of October, 2015.

A handwritten signature in black ink, appearing to read 'm L', is written over a horizontal line.

Matt Graham

Exhibit A

Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 7 of 19

Name	Days Worked						Route Pay						Landfill Tickets						1-Man Pay			Driver Incentive Pay						Extra Pay	Total Supplemental Pay	Driver Incentive Pa	
	M	T	W	Th	F	S	Total	M	T	W	Th	F	S	Total	M	T	W	Th	F	S	Total	M	T	W	Th	F	S				Total
Hernandez, Jose Antonio	1	1	1	1	1	1	6			10			10	20			25		25	50		0	1	1	1	1	1	6	70	30	
Jorge, Jose Hugo	1	1	1	0	1	1	5							0	25			25	50		0	1	1	1	1	1	1	6	60	30	
Pineda, Jose Angel	1	1	1	1	1	1	6	50	10	10	10	10	10	90					0		0	1	1	1	1	1	1	6	90	30	
Velasquez, Jose Abel	1	1	1	1	1	1	6	10	10	10		10	10	50			25		25		0	1	1	1	1	1	1	6	75	30	
							23																								
							<360																								
Emmy Guerrero							50																								
Luis Alonso Lopez							25																								
Jesus Martinez							100																								
							56																								

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01 GL Report - Salary_copy Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 8 of 19
 Page 1 of 1
 MCA MANAGEMENT COMPANY LP (85815)
 From: 12/28/2012 Through: 12/28/2012

Department : Code : Current: 3607

NAME	Job Code - Current	BEG MONTH	OT MONTH	GROSS	BEG	OT	BONUS	INCENT	SUPPLEMENTAL	NET
Pineda, Jose A	DRIVER-RES - Driver - Residential OPS	48.00	16.35	793.05	420.00	257.51		14.330000	81.20	774.52
Pineda, Jose A	LABORER Laborer - OPS									0.00
Jovel, Jose H	DRIVER-RES - Driver - Residential OPS	40.00	3.10	792.89	520.00	60.45		11.080000	181.15	719.22
Ortiz, Jose L	DRIVER-RES - Driver - Residential OPS	40.00	17.07	840.00	480.00	307.26			50.74	848.00
NAME	Job Code - Current	BEG MONTH	OT MONTH	GROSS	BEG	OT	BONUS	INCENT	SUPPLEMENTAL	NET
Velasquez, Jose A	DRIVER-RES - Driver - Residential OPS	40.00	15.01	839.32	440.00	247.67		14.090000	127.96	805.24

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Exhibit B

Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 10 of 19

Name	Days Worked							Route Pay							Landfill Tickets							1-Man Pay							Driver Incentive Pay							Defect	Incentive Pay, Hours	Base Rate	Reg Hours	OT Hours	Base Pay	Daily Max Supplemental Net Pay																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
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Exhibit C

Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 13 of 19

NAME	Employee ID	Hours	# of Days Worked	Base Rate	Reg Hours	OT Hours	Base Pay	Daily Max Supplemen- tal Pay	Max Sup.	Potential Sup. Amount	Supplemen- tal	Hourly Incentive Rate	Supplemen- tal Pay	Route Pay	Total Incentive
Josel, Jose Mayo	20893	52.85	6	13.25	40.00	12.85	785.39	175.00	1,050.00	264.61	264.61	4.46	235.62	20	255.62 106.00 69.00
Chris, Jose	24351	55.15	6	12.25	40.00	15.15	768.38	185.00	1,110.00	341.62	341.62	5.45	300.36	20	320.36 98.00 87.00

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Exhibit D

Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 15 of 19

01 GL Report - Salary_copy_1

Page 1 of 5

WCA MANAGEMENT COMPANY LP (85815)
From: 09/29/2015 Through: 09/29/2015

Department - Code - Current: 16070

NAME	DEPT	Job Code - Current	REG_HOURS	OT_HOURS	GROSS	REG	OT
	16070	DRIVER-RES - Driver - Residential OPS	40.00	18.65	1,952.25	619.20	433.05
	16070	DRIVER-RES - Driver - Residential OPS	40.00	18.60	1,921.90	603.80	419.90
	16070	DRIVER-RES - Driver - Residential OPS	35.40		436.13	436.13	
	16070	DRIVER-RES - Driver - Residential OPS	40.00	4.07	625.64	542.80	82.84
	16070	DRIVER-RES - Driver - Residential OPS	40.00	8.17	839.59	658.00	281.59
	16070	DRIVER-RES - Driver - Residential OPS	40.00	22.97	1,085.55	583.28	502.35
	16070	DRIVER-RES - Driver - Residential OPS	40.00	24.50	1,049.94	547.20	502.74
	16070	DRIVER-RES - Driver - Residential OPS	40.00	7.37	645.53	302.80	342.73
	16070	DRIVER-RES - Driver - Residential OPS	40.00	18.87	1,290.48	760.40	530.08
	16070	DRIVER-RES - Driver - Residential OPS	40.00	7.52	793.30	618.80	174.50
	16070	DRIVER-RES - Driver - Residential OPS	40.00	19.42	1,863.15	614.08	447.15
	16070	DRIVER-RES - Driver - Residential OPS	40.00	18.22	1,187.03	705.20	481.83
	16070	DRIVER-RES - Driver - Residential OPS	40.00	24.13	1,027.59	555.20	502.39
	16070	DRIVER-RES - Driver - Residential OPS	40.00	19.44	944.85	546.80	398.05
	16070	DRIVER-RES - Driver - Residential OPS	40.00	20.38	1,066.31	604.40	461.91
	16070	DRIVER-RES - Driver - Residential OPS	40.00	24.78	1,345.84	697.68	648.24
	16070	DRIVER-RES - Driver - Residential OPS	40.00	16.07	919.63	508.20	411.43
	16070	DRIVER-RES - Driver - Residential OPS	40.00	26.87	1,107.41	551.60	555.81
	16070	DRIVER-RES - Driver - Residential OPS	40.00	11.57	778.88	543.20	235.68

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WCA Management Corporation

01 GL Report - Salary_copy_1
Page 2 of 5
MCA MANAGEMENT COMPANY LP (85815)
From: 09/23/2015 Through: 09/23/2015

3607U	DRIVER-RMS - Driver - Residential OPS	40.00	20.58	1,221.07	689.20	531.85
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	18.27	1,043.43	619.20	424.23
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	26.23	948.99	478.40	470.57
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	21.05	1,019.94	570.00	449.94
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	25.08	1,109.38	571.60	537.35
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	19.25	1,190.16	691.20	494.94
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	20.90	974.64	546.40	428.24
3607U	DRIVER-RMS - Driver - Residential OPS	27.17		426.03	426.03	
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	23.52	1,128.49	599.60	528.85
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	16.65	1,080.91	665.20	415.33
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	22.32	1,146.29	624.00	522.29
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	24.47	1,001.79	522.40	479.37
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	13.48	1,089.15	720.40	368.75
3607U	DRIVER-RMS - Driver - Residential OPS					
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	16.88	931.95	518.40	323.55
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	29.97	1,010.11	479.60	534.51
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	17.05	1,117.40	681.60	435.80
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	21.77	823.18	483.20	369.98
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	23.33	1,118.20	419.60	495.60
3607U	DRIVER-RMS - Driver - Residential OPS	40.00	15.53	666.91	547.60	318.91

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01 GL Report - Salary_copy_1
Page 3 of 5
NCA MANAGEMENT COMPANY LP (185415)
From: 09/23/2015 Through: 09/23/2015

36070	DRIVER-RMS - Driver - Residential OPS	48.00	12.62	973.34	270.40	267.94
36070	DRIVER-RMS - Driver - Residential OPS	40.00	9.32	987.64	710.80	141.80
36070	DRIVER-RMS - Driver - Residential OPS	40.00	4.15	459.63	578.80	88.83
36070	DRIVER-RMS - Driver - Residential OPS	40.00	16.12	1,019.82	635.60	384.22
36070	DRIVER-RMS - Driver - Residential OPS	40.00	15.27	1,072.53	682.00	390.53
36070	DRIVER-RMS - Driver - Residential OPS	40.00	15.78	1,098.31	690.00	408.31
36070	DRIVER-RMS - Driver - Residential OPS	40.00	19.48	1,129.13	649.60	474.53
36070	DRIVER-RMS - Driver - Residential OPS	40.00	15.98	763.72	478.40	286.92
36070	DRIVER-RMS - Driver - Residential OPS	40.00	23.03	1,163.65	624.40	539.25
36070	DRIVER-RMS - Driver - Residential OPS	48.00		800.80	800.00	
36070	DRIVER-RMS - Driver - Residential OPS	48.00	6.42	229.18	740.80	178.35
36070	DRIVER-RMS - Driver - Residential OPS	40.00	19.63	1,119.46	760.00	559.46
36070	DRIVER-RMS - Driver - Residential OPS	40.00	11.75	884.12	614.40	270.72
36070	DRIVER-RMS - Driver - Residential OPS	36.14		891.84	495.84	
36070	DRIVER-RMS - Driver - Residential OPS	34.33		943.12	647.12	
36070	DRIVER-RMS - Driver - Residential OPS	40.00	16.42	987.55	611.20	376.35
36070	DRIVER-RMS - Driver - Residential OPS	40.00	19.18	999.23	581.20	418.03
36070	DRIVER-RMS - Driver - Residential OPS	40.00	24.80	1,015.18	526.00	489.18
36070	DRIVER-RMS - Driver - Residential OPS	40.80	4.55	988.51	671.60	316.91
36070	DRIVER-RMS - Driver - Residential OPS	40.00	15.64	1,060.67	646.40	392.27
36070	DRIVER-RMS - Driver - Residential OPS	40.00	19.88	1,061.18	609.20	454.16

01 GL Report - Salary_copy_2 Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 18 of 19

Page 4 of 5
WCA MANAGEMENT COMPANY LP (85815)
From: 09/25/2015 Through: 09/25/2015

3607U	DRIVER-RES - Driver - Residential OPS	40.00	21.50	1,094.58	606.00	488.58
3607U	DRIVER-RES - Driver - Residential OPS	40.00	17.74	1,102.72	641.60	461.12
3607U	DRIVER-RES - Driver - Residential OPS	40.00	19.82	1,144.97	656.80	488.17
3607U	DRIVER-RES - Driver - Residential OPS	40.00	14.35	1,179.52	731.20	448.32
3607U	DRIVER-RES - Driver - Residential OPS	40.00	19.15	954.59	595.60	358.99
3607U	DRIVER-RES - Driver - Residential OPS	40.00	21.60	1,059.94	545.60	474.34
3607U	DRIVER-RES - Driver - Residential OPS	40.00	25.00	1,188.63	598.00	590.63
3607U	DRIVER-RES - Driver - Residential OPS	40.00	19.85	1,582.21	620.40	461.81
3607U	DRIVER-RES - Driver - Residential OPS	40.00	17.33	957.59	580.40	377.19
3607U	DRIVER-RES - Driver - Residential OPS	40.00	19.77	1,235.48	709.60	525.88
3607U	DRIVER-RES - Driver - Residential OPS	40.00	15.72	1,223.37	768.40	454.97
3607U	DRIVER-RES - Driver - Residential OPS	40.00	16.80	1,274.23	781.20	493.03
3607U	DRIVER-RES - Driver - Residential OPS	40.00	18.25	1,284.19	743.60	540.59
3607U	DRIVER-RES - Driver - Residential OPS	40.00	20.75	1,044.12	887.20	456.92
3607U	DRIVER-RES - Driver - Residential OPS	40.00	20.12	1,346.74	693.60	493.14
3607U	DRIVER-RES - Driver - Residential OPS	40.00	22.23	971.09	529.60	441.49
3607U	DRIVER-RES - Driver - Residential OPS	40.00	18.12	1,179.01	702.00	477.01
3607U	DRIVER-RES - Driver - Residential OPS	40.00	24.43	1,121.53	582.00	539.53
3607U	DRIVER-RES - Driver - Residential OPS			864.00		
3607U	DRIVER-RES - Driver - Residential OPS	40.00	20.58	1,454.96	821.20	423.76
3607U	DRIVER-RES - Driver - Residential OPS	40.00	24.08	1,061.87	558.00	503.87

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Case 4:15-cv-02329 Document 13-1 Filed in TXSD on 10/07/15 Page 19 of 19

01 GL Report - Salary_copy_1
 Page 5 of 5
 MCA MANAGEMENT COMPANY LP (85815)
 From: 09/23/2015 Through: 09/25/2015

Villagomez, Lino D	3607U	DRIVER-RES - Driver - Residential OPS	40.00	22.07	1,322.29	568.80	487.31
Department - Code - Current: 3613							
<u>NAME</u>	<u>DEPT</u>	<u>Job Code - Current</u>	<u>REG_HOURS</u>	<u>OT_HOURS</u>	<u>GROSS</u>	<u>REG</u>	<u>OT</u>
3613		DRIVER-RES - Driver - Residential OPS	40.00	11.00	952.00	640.00	312.00
3613		DRIVER-RES - Driver - Residential OPS	40.00	16.30	1,031.20	640.00	391.20
3613		DRIVER-RES - Driver - Residential OPS	40.00	16.07	1,044.88	640.00	404.88
3613		DRIVER-RES - Driver - Residential OPS	40.00	16.08	1,051.57	656.00	395.57
3613		DRIVER-RES - Driver - Residential OPS	40.00	17.10	1,076.66	656.00	420.66
3613		DRIVER-RES - Driver - Residential OPS	40.00	16.63	1,122.25	691.20	431.05
3613		DRIVER-RES - Driver - Residential OPS	40.00	16.63	1,064.45	655.60	408.85
3613		DRIVER-RES - Driver - Residential OPS	40.00	9.25	1,114.75	656.00	227.55
Report Total Records: 91			3,493.06	1,455.78	91,823.55	54,421.12	34,562.09

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